

Message Text

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ACTION EB-08

INFO OCT-01 EA-10 ISO-00 AGRE-00 CEA-01 CIAE-00
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LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
STR-07 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 8742

C O N F I D E N T I A L SECTION 01 OF 02 MANILA 12260

E.O. 11652: GDS

TAGS: ETRD

SUBJECT: REQUEST FOR INFORMATION ON LABOR STANDARDS

REF: STATE 136706

1. THE FOLLOWING RESPONSES ARE KEYED TO QUESTIONS IN
REFTEL.

- 3. A) THE PHILIPPINE CONSTITUTION ARTICLE IV, THE
BILL OF RIGHTS, SECTION 14, STATES "NO INVOLUNTARY
SERVITUDE IN ANY FORM SHALL EXIST EXCEPT AS A PUNISHMENT
FOR A CRIME WHEREOF THE PARTY SHALL HAVE BEEN DULY
CONVICTED." WE HAVE NO EVIDENCE OF CONVICTS OR OTHER
FORCED LABOR BEING EMPLOYED IN EXPORT OR IMPORT SUBSTITU-
TION INDUSTRIES. THE RP LONG AGO RATIFIED THE ILO
CONVENTIONS ON FORCED LABOR.

- 3. B) THE PHILIPPINE LABOR CODE BOOK THREE, TITLE III,
CHAPTER II, ARTICLE 139 "PROVIDES THAT NO CHILD BELOW
FIFTEEN YEARS OF AGE SHALL BE EMPLOYED EXCEPT WHEN HE
WORKS DIRECTLY UNDER THE SOLE RESPONSIBILITY OF HIS
PARENTS OR GUARDIAN, AND HIS EMPLOYMENT DOES NOT IN ANY
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WAY INTERFERE WITH HIS SCHOOLING." THE LABOR CODE BECAME
LAW WHEN PRESIDENT MARCOS SIGNED PRESIDENTIAL DECREE 442
ON MAY 1, 1974. WHEN THE NATIONAL INSTITUTE OF STATISTICS
(NIS) MEASURED THE LABOR FORCE FOR 1975, THEY COUNTED ALL
"WORKERS" FROM 10 YEARS OF AGE AND ABOVE ALTHOUGH THE
LABOR CODE FORBIDS CHILDREN UNDER 15 TO WORK. AS RECENT
AS 1977, THERE WAS A STORY IN THE NEWSPAPERS REPORTING ON

A 13-YEAR-OLD GIRL HAVING PROBLEMS WITH A TEXTILE MILL OWNER. IN 1976, GOP STATISTICS REVEALED THAT 45 PERCENT OF THE RP POPULATION WAS 15 YEARS OF AGE OR YOUNGER (SEE MANILA A-178 JULY 1977). THE MINISTRY OF LABOR DOES NOT HAVE ENOUGH LABOR STANDARDS INSPECTORS TO ADEQUATELY POLICE THE EMPLOYMENT OF CHILDREN. WE ESTIMATE THAT THE WIDESPREAD USE OF CHILD LABOR IS VERY LIKELY.

- 3. C) THE LABOR CODE BOOK FOUR, TITLE I, CHAPTER II, ARTICLE 162, SAFETY AND HEALTH STANDARDS STATES "THE SECRETARY OF LABOR SHALL, BY APPROPRIATE ORDERS, SET AND ENFORCE MANDATORY OCCUPATIONAL SAFETY AND HEALTH STANDARDS TO ELIMINATE OR REDUCE OCCUPATIONAL SAFETY AND HEALTH HAZARDS IN ALL WORKPLACES AND INSTITUTE NEW, AND UPDATE EXISTING, PROGRAMS TO ENSURE SAFE AND HEALTHFUL WORKING CONDITIONS IN ALL PLACES OF EMPLOYMENT." THE IMPLEMENTING REGULATIONS CHARGE THE BUREAU OF LABOR STANDARDS WITH THE DUTY TO PREPARE HEALTH STANDARDS FOR TOXIC SUBSTANCES NOTED REFTEL. TOXIC SUBSTANCES STANDARDS HAVE BEEN PREPARED BUT HAVE NOT YET BEEN PLACED IN EFFECT BY THE MINISTER OF LABOR. THE MINISTER HAS DEFERRED ACTION SINCE HE CONSULTED WITH THE SINGAPORE MINISTER OF LABOR WHEN THE ASEAN LABOR MINISTERS LAST MET AND WAS TOLD THE PROPOSED RP STANDARDS WOULD ADVERSELY AFFECT INDUSTRY. THE DIRECTOR OF THE BUREAU OF LABOR STANDARDS IS VISITING SINGAPORE FROM JULY 10 TO JULY 21 FOR THE PURPOSE OF CHECKING
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SINGAPORE'S LABOR STANDARDS FOR TOXIC SUBSTANCES, WITH THE US STANDARDS UPON WHICH THE PROPOSED PHILIPPINE STANDARDS ARE BASED. COMMENT: THE US DEPARTMENT OF LABOR CONDUCTED TWO WEEK-LONG SEMINARS IN MANILA IN 1975 AND 1977 ON OCCUPATIONAL SAFETY AND HEALTH. THE MINISTRY OF LABOR OFFICIALS WHO PREPARED THE PROPOSED SAFETY AND HEALTH REGULATIONS DREW HEAVILY ON THE KNOWLEDGE GAINED FROM THESE SEMINARS. END COMMENT.

3. D) WE ARE NOT AWARE OF ANY LAW OR PRACTICE THAT APPLIES DIFFERENTIAL LABOR REGULATIONS/STANDARDS TO FREE TRADE ZONES, INDUSTRIAL EXPORT INDUSTRIES, ETC. HOWEVER, THERE ARE VARIOUS ACROSS-THE-BOARD GOVERNMENT CONTROLS ON TRADE UNION ACTIVITIES, WAGES LEVELS, ETC. THERE IS A PRESIDENTIAL DECREE THAT BANS STRIKES AND LOCKOUTS DURING THE "NATIONAL EMERGENCY" FOR VIRTUALLY ALL INDUSTRIES, WITH THE RESULT THAT VERY LITTLE PRODUCTION TIME IS LOST DUE TO STRIKES. THE GOP CONSCIOUSLY TRIES TO HOLD DOWN WAGES, PARTICULARLY MINIMUM WAGES SINCE THE BULK OF THE LABOR FORCE IS EFFECTED BY THE MINIMUM WAGE. THE WAGE PACKAGE FOR THE PHILIPPINES IS THE LOWEST IN SOUTHEAST ASIA (SEE MANILA A-178 JULY 1977).

2. STRIKE BAN. PRESIDENTIAL DECREE NUMBER 823, SIGNED NOV. 3, 1975, PROHIBITS STRIKES AND LOCKOUTS IN VITAL INDUSTRIES DURING THE NATIONAL EMERGENCY." VITAL INDUSTRIES FOR ALL PRACTICAL PURPOSES INCLUDES VIRTUALLY EVERY INDUSTRY EXCEPT THE SARI-SARI (MOM AND POP) STORES. NEVERTHELESS THE DECREE STATES: "HOWEVER, ANY LEGITIMATE LABOR UNION MAY STRIKE AND ANY EMPLOYER MAY LOCK OUT IN ESTABLISHMENTS NOT COVERED BY GENERAL ORDER NO. 5 (NATIONAL EMERGENCY) ONLY ON GROUNDS OF UNRESOLVED ECONOMIC ISSUES IN COLLECTIVE BARGAINING, IN WHICH CASE THE UNION OR THE EMPLOYER SHALL FILE A NOTICE WITH THE BUREAU OF LABOR RELATIONS AT LEAST 30 DAYS BEFORE THE INTENDED STRIKE OR

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LOCKOUT. THE BUREAU SHALL EXERT ALL-OUT EFFORTS TO EFFECT A VOLUNTARY SETTLEMENT DURING THE 30-DAY PERIOD. SHOULD THE DISPUTE REMAIN UNSETTLED THEREAFTER, THE UNION MAY GO ON STRIKE AND THE EMPLOYER MAY LOCK OUT UNLESS THE PRESIDENT OR HIS DULY AUTHORIZED REPRESENTATIVE CERTIFIES THE DISPUTE TO THE NATIONAL LABOR RELATIONS COMMISSION FOR COMPULSORY ARBITRATION IN THE INTEREST OF NATIONAL SECURITY OR PUBLIC SAFETY, PUBLIC ORDER, THE PROTECTION OF PUBLIC HEALTH OR MORALS, OR THE PROTECTION OF THE RIGHTS AND FREEDOM OF OTHERS. SUCH CERTIFICATION SHALL HAVE THE EFFECT OF AUTOMATICALLY ENJOINING THE STRIKE OR LOCKOUT."

3. THIS PROVISION IN THE DECREE HAS ENABLED THE UNIONS TO STRIKE OVER ECONOMIC DISPUTES. THE MOMENT A STRIKE TAKES ON A POLITICAL COLORATION, HOWEVER, THE POLICE ARE CALLED IN TO ARREST THE STRIKE LEADERS, AND THEY ARE JAILED

(MANILA 9508, JUNE 1978). SINCE NOV. 1975, WHEN THE DECREE WAS SIGNED, TO DEC. 31, 1977, A TOTAL OF 453 STRIKE NOTICES WERE FILED; OF THIS TOTAL, 121 ACTUAL STRIKES WERE DECLARED; 101 STRIKES WERE SETTLED BY CONCILIATION; AND 20 WERE CERTIFIED TO THE TRIPARTITE NATIONAL LABOR RELATIONS COMMISSION FOR BINDING COMPULSORY ARBITRATION. FOR THE YEARS 1976 AND 1977, WORK STOPPAGES INVOLVING
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102,872 WORKERS LOST 1,918,120 MAN-HOURS OF PRODUCTION. UNDER THIS SYSTEM STRIKES SELDOM LAST MORE THAN EIGHT HOURS. P.D. 823 IN PRACTICE BECOMES A REGULATION OF THE RIGHT TO STRIKE AND NOT AN OUTRIGHT BAN.

4. WAGE POLICY. THE GOP'S OFFICIAL POLICY IS TO LET WAGES BE SET BY COLLECTIVE BARGAINING. IN 1977 THERE WERE 2,529 COLLECTIVE BARGAINING AGREEMENTS (CBA'S) IN EXISTENCE AND REGISTERED WITH THE DEPARTMENT OF LABOR. THESE CBA'S COVERED 724,012 INDUSTRIAL WORKERS. WITH A LABOR FORCE IN 1977 OF 15.4 MILLION, COLLECTIVE BARGAINING HAS A VERY LIMITED EFFECT ON SETTING WAGES. THE MINIMUM WAGE HAS A FAR GREATER EFFECT ON WAGES IN GENERAL. THE MINIMUM WAGE IS SUPPOSED TO BE SET BY A TRIPARTITE COMMISSION WHICH MET IN 1976 AND 1978 TO CONSIDER THIS ISSUE. ON EACH OCCASION THE COMMISSION COULD NOT AGREE ON A NEW MINIMUM, AND PRESIDENT MARCOS TWICE DECREED INCREASES IN THE MINIMUM WAGE. THE GOP'S POSITION EACH TIME, AS PRESENTED BY GERARDO SICAT, CHAIRMAN OF THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY (NEDA), OPPOSED ANY INCREASE IN THE MINIMUM WAGE. IN THE 1978 DEBATE, SICAT NOTED: "RAISING THE MINIMUM WAGE NOW MAY UNSETTLE THE IMPROVING CLIMATE OF BOTH DOMESTIC AND FOREIGN INVESTMENTS ESPECIALLY AT A TIME WHEN CONCRETE SIGNS OF RECOVERY IN INVESTMENT ACTIVITIES HAVE BEEN OBSERVED HERE AND ABROAD. INVESTORS, BOTH LOCAL AND FOREIGN, MAY POSTPONE MAKING INVESTMENT DECISIONS IN VIEW OF OVERRUNS IN PRODUCTION COST ESTIMATES DUE TO THE INCREASE IN LABOR COSTS. ... OUR EXPORT EXPANSION AND DIVERSIFICATION EFFORTS WILL BE SET BACK. PRESENTLY, WE HAVE AN EDGE OVER OTHER SUPPLIERS OF SUCH MANUFACTURED PRODUCTS AS GARMENTS AND ELECTRONIC PRODUCTS BECAUSE OF OUR RELATIVELY ABUNDANT LABOR SUPPLY. INCREASING LABOR COSTS WILL MEAN WE WILL BE INTENTIONALLY
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PUSHING OURSELVES OUT OF COMPETITION IN THE EXISTING FOREIGN MARKETS, PERHAPS NOT ONLY IN CASE OF MANUFACTURED

EXPORTS BUT ALSO IN SOME TRADITIONAL EXPORTS AS WELL."

5. EACH INCREASE IN THE MINIMUM WAGE OR COST-OF-LIVING ALLOWANCE HAS PROVIDED AN ESCAPE CLAUSE FOR THOSE EMPLOYER OR INDUSTRIES THAT WISHED TO PLEAD HARDSHIP AND WERE ABLE TO JUSTIFY THEIR PLEA. UP UNTIL MAY 1, 1978, WHEN PRESIDENT MARCOS REMOVED ALL PAST EXEMPTIONS, THE ENTIRE SUGAR INDUSTRY WAS GRANTED A HARDSHIP EXEMPTION FROM THE 1977 COST-OF-LIVING ALLOWANCE (MANILA 9270, JUNE 16, 1977). MUCH OF THE TEXTILE INDUSTRY APPLIED FOR EXEMPTION FROM COST-OF-LIVING ALLOWANCES AND THE 13TH-MONTH BONUS BUT WERE DENIED EXEMPTION.

6. BUT FOR THE EXEMPTIONS NOTED ABOVE, LABOR LAWS AND PRACTICE APPLY TO THE ENTIRE ECONOMY. THE DEGREE TO WHICH THE LAW IS ENFORCED DEPENDS ON THE EXISTENCE OF A VIABLE UNION IN THE AREA AND THE ABILITY OF THE DEPARTMENT OF LABOR TO RECRUIT AND HOLD QUALIFIED STAFF. MURPHY

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